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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/965,537	09/26/2001	Jonathan Lacey	10004238-1	3740

7590 03/01/2004

AGILENT TECHNOLOGIES, INC.
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Intellectual Property Administration
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EXAMINER

PETKOVSEK, DANIEL J

ART UNIT	PAPER NUMBER
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2874

DATE MAILED: 03/01/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

09/965,537

Applicant(s)

LACEY, JONATHAN

Examiner

Daniel J Petkovsek

Art Unit

2874

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on AF amendment received February 6, 2004.
- 2a) ☐ This action is FINAL. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-3,8,9 and 11-20 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-3,8,9 and 11-20 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 02 September 2003 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: _____

DETAILED ACTION

This office action is in response to the after final amendment received February 6, 2004. In accordance with the amendment, claims 1, 11, 12, 18, and 20 have been amended, while claim 10 has been canceled. Claim 10 had previously been indicated (see paper 12/5/03) as having allowable material, if included in independent form with any intervening claims. However, upon further consideration, the indicated allowability of this claim has been withdrawn. Accordingly, this rejection is made *NON-FINAL*.

Claim Rejections - 35 USC § 102

1. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

2. Claims 1-3, 8, 9, and 11-20 are rejected under 35 U.S.C. 102(b) as being anticipated by Wagner U.S.P. No. 5,221,983.

Wagner U.S.P. No. 5,221,983 teaches (Fig. 1, column 5, lines 13-29) a broadcast network comprising: a transmission signal, a branch point 3 including a 1x2 element, and a plurality of fiber optic cables for providing diversity in the route of the optical signals to the end user.

Claim Rejections - 35 USC § 103

3. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

4. Claims 1-3, 8, 9, and 11-20 are rejected under 35 U.S.C. 103(a) as being unpatentable over Nagahori et al. U.S.P. No. 5,896,213, and further in view of Geile et al. U.S.P. No. 6,336,201.

Nagahori et al. U.S.P. No. 5,896,213 teaches (ABS, Figs. 2, 4, and 5, summary, claim 1) an optical fiber network system comprising: an optical transmitter 6 for broadcasting an optical signal to a plurality of optical receivers 31-3N; a branching point 3 coupled to the transmitter including a 1xN element; and first and second individual optical transmission lines corresponding to particular end users. Nagahori et al. '213 does not explicitly teach that the branch element is 1x2, or the optical transmission lines are optical fiber cables surrounding fibers 51-5N, with 52 being a cable to provide *route diversity* on the opposite side of the 1xN element.

Regardless, 1x2 splitters are well-known arrangements of optical networks since they create a greater number of signals to transmit to the customer/user. Geile et al. U.S.P. No. 6,336,201 teaches (column 21, line 60 through column 22, line 6) a fiber cable transmission system that transmits optical signals to users by use of a branching point, in which it is taught that a tree of cascaded splitters can be used in any optical transmission network in order to further multiply the number of duplicated optical signals and thus increase the remote units serviceable by a single transmission signal. Any tree arrangement (1x2, 1x3, 1xN, etc) would have been reasonably suggested.

Since Nagahori et al. '213 and Geile et al. '201 are both from the same field of endeavor, the purpose of splitting the optical signal into a plurality of usable optical signals for desired end users, as disclosed by Geile et al. '201, would have been recognized in the pertinent art of Nagahori et al. '213.

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It would have been obvious at the time the invention was made to a person having ordinary skill in the art to use a tree of splitters (such as 1x2, or other splitters) in the branching point of Nagahori et al. '213 for the purpose of sending this optical signal to a greater plurality of end users for the purpose of broadcasting the signal to more users for more economic growth capabilities.

Regarding the limitation that the optical transmission line is not an optical fiber cable, since cables are well known in the art to protect and envelop optical transmission lines, it would have been obvious at the time the invention was made to a person having ordinary skill in the art to use optical cables to protect the optical signals traveling to the end user, since cables are well-known forms of transmission lines in the art.

Regarding method claims 18-20, the method for broadcasting information is inherent from the optical network.

Conclusion

5. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure, with respect to branching systems: PTO-892 form references B-D.

6. It is noted that limitations are missing from claim 1 in the after final amendment received February 6, 2004, as essential elements are absent from the prior claim language of claim 1, for example, "wherein the branch point includes a *tree of 1x2 splitters*". However, upon further review, the previously indicated allowable subject of claim 10 has been withdrawn regardless to the current standing of claim 1. Claims 1-3, 8, 9, and 11-20 stand rejected to Wagner U.S.P. No.

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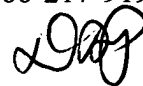
5,221,983, and Nagahori et al. U.S.P. No. 5,896,213 in further view of Geile et al. U.S.P. No. 6,336,201.

7. Since previously indicated allowable subject material has been withdrawn, the action is made **NON-FINAL**. Currently all pending claims (1-3, 8, 9, and 11-20) stand rejected.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Daniel J Petkovsek whose telephone number is (571) 272-2355. The examiner can normally be reached on M-F 8:30-5:00.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Rodney Bovernick can be reached on (571) 272-2344. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).



Daniel J Petkovsek
Examiner
Art Unit 2874

February 18, 2004



Brian Healy
Primary Examiner